



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Kurt Tidd PE, Bureau of Air Quality
SUBJECT: Boralex Stratton Energy, LLC
DATE: October 15, 2009

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Statutory and Regulatory References:

Department Regulations Chapters 115 and 140 authorizes the Department to impose reasonable and appropriate license conditions to ensure compliance with emission standards, regulations or orders. Boralex Stratton Energy, LLC operates its facility under the terms and conditions of Air Emission License A-368-70-A-I.

Location:

Stratton, Maine

Description:

In the absence of the need for Department initiated enforcement triggered when conditions of serious or patterns of non-compliance exists, Boralex has requested that the Department resolve all prior outstanding violations at its facility related to their air emissions license. Boralex currently has five facilities in the state and has requested that the Department initiate an enforcement action at one facility per year.

Environmental Issues:

The Department relies on the licensing of facilities to ensure compliance with State Laws and Regulations. Through the licensing process, the Department is able to control the amount and types of pollutants that are emitted to the atmosphere within the State.

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Department Recommendation:

Staff recommends approval of the Consent Agreement which requires Boralex Stratton Energy, LLC to comply with the requirements of Department Regulations Chapter 140 and Air Emissions License A-368-70-A-I and provides for Civil Penalties in the amount of \$8,300.00. The penalty was based on the Air Bureau's penalty assessment guideline.



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IN THE MATTER OF:

BORALEX STRATTON ENERGY LP) **ADMINISTRATIVE CONSENT**
FRANKLIN COUNTY) **AGREEMENT**
STRATTON, MAINE)
A-368-70-A-I)

This Agreement by and among Boralex Stratton Energy LP ("BSE") the Maine Department of Environmental Protection ("Department") and Maine Office of the Attorney General is entered into pursuant to 38 M.R.S.A § 347-A (1).

The parties agree as follows:

1. BSE is a Delaware Limited Partnership registered to do business in Maine, as a biomass electrical generating facility.
2. The violations described herein took place at BSE's biomass electrical generating facility located in Stratton, Maine. BSE has voluntarily requested this Administrative Consent Agreement to resolve all past non-exempted excess emissions.
3. During times relevant to this Agreement, BSE was subject to Maine's Protection and Improvement of Air laws ("Air Act"), 38 M.R.S.A. §§581-610-B and Air Emission License A-577-70-A-I (7/2/2002).
4. Throughout the period of time addressed in this Agreement, BSE was subject to Air Emissions License A-368-70-E-A which contains replacement condition (C) and which states in relevant part;

The following shall replace Condition (24)C of Part 70 License A-368-70-A-I and amendment A-368-70-B-A:

(24) Boiler #1

(C) Emissions from Boiler #1 shall not exceed the following limits:

NOx	0.24 lb/MMBtu (24 hour daily block average)
CO	0.60 lb/MMBtu (24 hour daily block average)

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BORALEX STRATTON ENERGY LP
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Air Emissions License A-368-70-A-I contains condition 24(H) which state in relevant part;

(24) Boiler #1

(H) BSE shall operate Boiler 1 such that the opacity does not exceed 20% over a six minute average except for one six minute period per hour of not more than 27%, subject to the provisions of Title 38 MRSA §349. [MEDEP Chapter 140, BPT]

5. Excess Emission and Quarterly reports submitted by BSE to the Department for the third quarter of 2006 through the second quarter of 2009 describe the following incidents of excess NOx emissions in violation of the requirements stated in paragraph four (4) above:

<u>Boiler #1</u>	<u>Year</u>	<u>Incidents (24 Hour Block Avg)</u>
	2006	3

6. Excess Emission and Quarterly reports submitted by BSE to the Department for the third quarter of 2006 through the second quarter of 2009 describe the following incidents of excess CO emissions in violation of the requirements stated in paragraph four (4) above:

<u>Boiler #1</u>	<u>Year</u>	<u>Incidents (24 Hour Block Avg)</u>
	2006	1
	2007	1
	2008	3
	2009	1

7. Excess Emission and Quarterly reports submitted by BSE to the Department for the third quarter of 2006 through the second quarter of 2009 describe the following incidents of excess opacity in violation of the requirements stated in paragraph four (4) above:

<u>Boiler #1</u>	<u>Year</u>	<u>Incidents (6 Minute Block Avg)</u>
	2006	1
	2007	10
	2008	3
	2009	2

8. By the conduct described in paragraphs five (5), six (6) and seven (7), BSE violated Air Emissions License A-368-70-E-A replacement condition (C) and Air Emissions License A-368-70-A-I, condition (H).

**BORALEX STRATTON ENERGY LP
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9. Department Staff notified BSE by a Notice of Violation (NOV) dated July 23, 2009 and on July 29, 2009 a revised NOV was issued to correct an emission limit stated incorrectly in the July 23 NOV for Air Emissions violations described in paragraphs five (5), six (6) and seven (7).
10. For the purposes of this Agreement, BSE agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A. § 347-A(1)(B).
11. Pursuant to 38 M.R.S.A § 341-D(6)(C) and 347-A(1)(A)(1), Administrative Consent Agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
12. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
13. To resolve the violations identified in paragraphs five (5), six (6) and seven (7) of this agreement, BSE agrees to pay to the Treasurer, State of Maine immediately upon signature of this Consent Agreement a civil monetary penalty in the amount of eight thousand, three hundred dollars (\$8,300.00) for the violations related to Air Emissions License A-368-70-A-I and Amendments set forth herein.
14. The Board and the Office of the Attorney General grant a release of their cause of action against BSE for the specific violations listed in paragraphs five (5), six (6) and seven (7) of this Agreement on the express condition that the civil monetary penalty listed in paragraph thirteen (13) of this Agreement is paid. The release shall not become effective until all requirements of this Agreement are satisfied.
15. Non-compliance with this Agreement voids the release set forth in paragraph fourteen (14) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
16. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.
17. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

BORALEX STRATTON ENERGY LP
FRANKLIN COUNTY
STRATTON, MAINE
A-368-70-A-I

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IN WITNESS HEREOF the parties hereto have executed this Agreement of four (4) pages.

BORALEX STRATTON ENERGY LP

BY:  09/17/09
Title _____ DATE

BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
Susan M. Lessard, Chair _____ DATE

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____
Gerald D. Reid, Assistant Attorney General _____ DATE